

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	C.A. No. 02-108E
)	
vs.)	Mis. No. 02-56E
)	
ANTHONY A. MAGNOTTA and)	
BETTY MAGNOTTA,)	
)	
Defendants.)	

**PLAINTIFF'S MOTION FOR SPECIAL ORDER OF SERVICE OF AMENDED
NOTICE OF MARSHAL'S SALE AS TO DEFENDANT, BETTY MAGNOTTA, ONLY**

AND NOW comes the United States of America by its attorneys Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and McGrath & Associates, P.C., and respectfully moves the Court for a Special Order of Service of Notice of Marshal's Sale as to Defendant, Betty Magnotta, only, and in support thereof respectfully avers as follows:

1. On April 5, 2002, Plaintiff instituted this proceeding against the above-named Defendants requesting a judgment in mortgage foreclosure and a deficiency judgment after deduction of monies realized from the mortgage foreclosure.
2. On August 2, 2002, the United States Marshal served Defendants with the Summons and Complaint at 320 Corydon Street, Bradford, PA 16701.
3. Default judgment was subsequently entered against both Defendants, a writ of execution issued, and the mortgaged property scheduled for Marshal's Sale for April 28, 2006.

4. The United States Marshal attempted to serve Defendant, Betty Magnotta, with the Notice of Marshal's Sale and Writ of Execution at 320 W. Corydon Street, Bradford, PA 16701, where she was served with the Summons and Complaint. However, the Marshal was unable to obtain service on Defendant, Betty Magnotta. A copy of the Marshal's Process Receipt and Return is attached hereto as **Exhibit "A"**, and incorporated herein by reference.

5. On April 28, 2006, the United States Marshal posted the Handbill Notice of Sale on the mortgaged property known as 320 W. Corydon Street, Bradford, PA 16701. A true and correct copy of the Marshal's Process Receipt and Return form evidencing posting of the Handbill Notice of Sale is attached hereto as **Exhibit "B"**, and incorporated herein by reference.

6. On June 8, 2006, Plaintiff conducted an on-line Internet search for the current address of Defendant, Betty Magnotta via Accurint, a data base for locating individuals. The most recent address available for Defendant, Betty Magnotta is 320 W. Corydon Street, Bradford, PA 16701. A copy of the Accurint search is marked as **Exhibit "C,"** attached hereto and made a part hereof.

7. Plaintiff has requested that a Marshal's Sale advertisement be published in a newspaper of general circulation and the local legal journal a total of eight (8) times prior to the Sale. The Marshal's Sale advertisement being published sets forth a description of the mortgaged property, the time, date, location, and the terms of the Sale.

8. Federal Rule of Civil Procedure 4(e)(1) permits alternative service pursuant to state law.

9. Pennsylvania Rule of Civil Procedure 430(a) permits a party to seek a special order of court for alternative service.

10. Rule 410 of the Pennsylvania Rules of Civil Procedure, entitled “Real Property Action” states that:

(c) If service is made pursuant to an order of court under Rule 430(a), the court shall direct one or more of the following methods of service:

- (1) publication as provided by Rule 430(b),
- (2) posting a copy of the original process on the most public part of the property,
- (3) registered mail to the Defendant’s last known address, and
- (4) such other methods, if any, as the court deems appropriate to give notice to the Defendant.

11. In light of the foregoing, Plaintiff requests that this Honorable Court authorize service of the Amended Notice of Marshal’s Sale and Writ of Execution on Defendant, Betty Magnotta, only, by posting a copy of the pleading or document on the mortgaged premises known as 320 W. Corydon Street, Bradford, PA 16701, and mailing a copy of the pleading or document via First Class U.S. Mail, Postage Prepaid, Certificate of Mailing, and Certified Mail, Return Receipt Requested to Defendant, Betty Magnotta’s last known address 320 W. Corydon Street, Bradford, PA 16701, with service to be deemed valid and complete upon mailing and posting.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court authorize service of the Amended Notice of Marshal's Sale and Writ of Execution on Defendant, Betty Magnotta, only, by posting a copy of the pleading or document on the mortgaged premises known as 320 W. Corydon Street, Bradford, PA 16701, and mailing a copy of the pleading or document via First Class U.S. Mail, Postage Prepaid, Certificate of Mailing, and Certified Mail, Return Receipt Requested to Defendant, Betty Magnotta's last known address 320 W. Corydon Street, Bradford, PA 16701, with service to be deemed valid and complete upon mailing and posting.

Respectfully submitted,

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